

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CASE NO.:

STOCKFOOD AMERICA, INC.,

Plaintiff,

v.

NEW ENGLAND CHEESEMAKING
SUPPLY COMPANY, INC.,

Defendant.

**COMPLAINT FOR COPYRIGHT INFRINGEMENT
(INJUNCTIVE RELIEF DEMANDED)**

Plaintiff STOCKFOOD AMERICA, INC. by and through its undersigned counsel, brings this Complaint against Defendant NEW ENGLAND CHEESEMAKING SUPPLY COMPANY, INC. for damages and injunctive relief, and in support thereof states as follows:

SUMMARY OF THE ACTION

1. Plaintiff STOCKFOOD AMERICA, INC. (“Stockfood”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Stockfood’s original copyrighted Works of authorship in its Works.

2. Stockfood is the world’s leading food image agency. Stockfood has a unique collection of food images, videos, features and recipes on the worldwide subject of food and drink. Stockfood was founded in Munich, Germany by photographer Pete A. Eising. In 1996, Stockfood founded a sales office in Kennebunk, Maine, and in 2007, in London, England. Stockfood specialized in the art of food from the very beginning. In addition to a renowned food photography studio, Studio Eising, the company initially offered exclusively rights-managed

SRIPLAW

CALIFORNIA ♦ GEORGIA ♦ FLORIDA ♦ TENNESSEE ♦ NEW YORK

images. In 2002 the offering was expanded to include royalty-free images, and in 2008 videos were added, together with an in-house production studio.

3. In 2011, features – complete articles including images and text – became available too. Today, an in-house editorial team can supply appropriate text of all images, videos, feature articles and recipes. Stockfood content and productions can be found in high-quality print publications, mobile apps, advertisements, books and calendars worldwide.

4. Defendant NEW ENGLAND CHEESEMAKING SUPPLY COMPANY, INC. (“Cheesemaker”) is a company based out of Massachusetts which ships packages to customers whereby they can learn to make cheese at home through hands-on workshops. Cheesemaker own or operates a website located at the URL www.cheesemaking.com (the “Website”).

5. Stockfood alleges that Cheesemaker copied Stockfood’s copyrighted Works from the internet in order to advertise, market and promote its business activities. Cheesemaker committed the violations alleged in connection with Cheesemaker’s business for purposes of advertising and promoting sales to the public in the course and scope of the Cheesemaker’s business.

JURISDICTION AND VENUE

6. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

7. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

8. Defendant is subject to personal jurisdiction in Massachusetts.

9. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendant engaged in infringement in this district, Defendant resides in this district, and Defendant is subject to personal jurisdiction in this district.

DEFENDANT

10. New England Cheesemaking Supply Company, Inc. is a Massachusetts Corporation, with its principal place of business at 54 Whately Road, Suite B, South Deerfield, MA 01373, and can be served by serving its Registered Agent, Ricki Carroll, at the principal place of business or at 292 Main Street, PO Box 85, Ashfield, MA 01330.

THE COPYRIGHTED WORKS AT ISSUE

11. The below table details the Copyright Titles, Registration Numbers and Registration Issue Dates of the pieces of intellectual property at issue in this case, one of which is shown below, and which are referred to herein as the “Works.” Copies of the Works are attached hereto as Exhibit 1. Copies of the Registration Certificates are attached hereto as Exhibit 2.

Copyright Title	Registration Number	Registration Issue Date
00135052	VA 1-652-286	3/13/2008
00129949	VA 1-434-120	6/10/2013
00141104	VA 1-652-289	3/13/2008

12. Stockfood’s Works are protected by copyright but are not otherwise confidential, proprietary, or trade secrets.

13. At all relevant times Stockfood was the owner of the copyrighted Works at issue in this case.

INFRINGEMENT BY DEFENDANT

14. Cheesemaker has never been licensed to use the Works at issue in this action for any purpose.

15. On a date after the Works at issue in this action were created, but prior to the filing of this action, Cheesemaker copied the Works and displayed the works on the Website

16. On or about March 19, 2018, Stockfood discovered the unauthorized use on the Website. All three (3) Works were used to promote either recipes or the motivating background histories behind them.

17. Cheesemaker copied Stockfood's copyrighted Works without Stockfood's permission.

18. After Cheesemaker copied the Works, it made further copies and distributed the Works on the internet to promote the sale of goods and services as part of its discussions on Sicilian canestrato, blue camembert/brie, and quark.

19. Cheesemaker copied and distributed Stockfood's copyrighted Works in connection with Cheesemaker's business for purposes of advertising and promoting Cheesemaker's business, and in the course and scope of advertising and selling products and services.

20. Stockfood's Works are protected by copyright but are not otherwise confidential, proprietary, or trade secrets.

21. Cheesemaker committed copyright infringement of the Works as evidenced by the documents attached hereto as Exhibit 3.

22. Stockfood never gave Cheesemaker permission or authority to copy, distribute or display the Works at issue in this case.

23. Stockfood notified Cheesemaker of the allegations set forth herein on July 16, 2020 and August 3, 2020. To date, the parties have failed to resolve this matter. Copies of the Notices to Cheesemaker are attached hereto as Exhibit 4.

COUNT I
COPYRIGHT INFRINGEMENT

24. Stockfood incorporates the allegations of paragraphs 1 through 23 of this Complaint as if fully set forth herein.

25. Stockfood owns valid copyrights in the Works at issue in this case.

26. Stockfood registered the Works at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

27. Cheesemaker copied, displayed, and distributed the Works at issue in this case and made derivatives of the Works without Stockfood's authorization in violation of 17 U.S.C. § 501.

28. Cheesemaker performed the acts alleged in the course and scope of its business activities.

29. Cheesemaker's acts were willful.

30. Stockfood has been damaged.

31. The harm caused to Stockfood has been irreparable.

WHEREFORE, the Plaintiff Stockfood America, Inc. prays for judgment against the Defendant New England Cheesemaking Supply Company, Inc. that:

a. Defendant and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;

b. Defendant be required to pay Plaintiff its actual damages and Cheesemaker's profits attributable to the infringement, or, at Plaintiff's election, statutory damages, as provided in 17 U.S.C. § 504;

c. Plaintiff be awarded its attorneys' fees and costs of suit under the applicable statutes sued upon;

d. Plaintiff be awarded pre and post-judgment interest; and

e. Plaintiff be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.

DATED: March 3, 2021

Respectfully submitted,

/s/ Tammy Fern Bouchard Baker

TAMMY FERN BOUCHARD BAKER

tammy@bouchardbaker.com

BOUCHARD BAKER, P.C.

120 North Main Street

Suite 204

Attleboro, MA 02703

617.999.5529 – Telephone

401.427.2311 – Facsimile

Attorneys for Plaintiff Stockfood America, Inc.